

TRANSMITTAL LETTER
(General - Patent Pending)

Docket No.
11675.23

In Re Application Of: Cathey, et al.

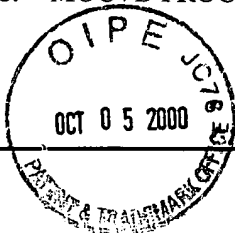
Serial No.
09/031,617

Filing Date
February 27, 1998

Examiner
James Park

Group Art Unit
2822

Title: MOCVD PROCESS USING OZONE AS A REACTANT TO DEPOSIT A METAL OXIDE BARRIER LAYER



TO THE ASSISTANT COMMISSIONER FOR PATENTS:

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Petition to the Commissioner Under 37 C.F.R. § 1.181
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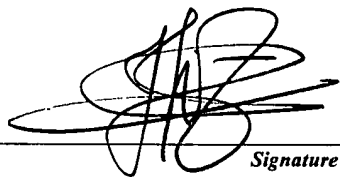
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Jesús Juanós i Timoneda
Attorney for Applicants
Registration No. 43,332



022901

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PETITION UNDER
37 C.F.R. § 1.181

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ART UNIT 2822

Docket No. 11675.23



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#11 / Response /
petition
Joka
10/17/00

In re application of:

David A. Cathey, *et al.*

Serial No.:

09/031,617 ✓

Filed:

February 27, 1998 ✓

For:

MOCVD PROCESS USING OZONE AS A
REACTANT TO DEPOSIT A METAL OXIDE
BARRIER LAYER

Examiner:

James Park

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) Art Unit
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PETITION TO THE COMMISSIONER UNDER 37 C.F.R. § 1.181

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Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

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Regarding the Final Office Action mailed August 11, 2000 (the "Final Office Action"), Applicants submit this Petition under 37 C.F.R. § 1.181 as set forth in M.P.E.P. § 1002.02(c) concerning prematureness of final rejection, M.P.E.P. § 706.07(c), and the lack of "a complete action on all claims to the elected invention [that] should be given". M.P.E.P. § 821.03.

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Petition Under 37 C.F.R. § 1.181
Serial No. 09/031,617

1. **Statement of Facts Involved Pursuant to 37 C.F.R. § 1.181(b)**

In response to the Office Action mailed November 26, 1999, Applicants filed Amendment A on February 24, 2000. In this Amendment A, Applicants added independent claim 26, claims 27-29 dependent thereof, and independent claim 30.

In the Office Action mailed March 17, 2000, claims 26-30 were reported as having been withdrawn by the Examiner because they “are directed to a species of the invention that is independent or distinct from the species originally claimed for the following reasons: the new claims are disclosing a method of deposition on any surface and the previous claims are a process for creating a barrier layer on a semiconductor substrate.” Office Action, p. 2. *See also*, Office Action, p.3, citing 37 C.F.R. 1.142(b) and M.P.E.P. § 821.03 regarding constructive election of claims.

In relevant part, independent claim 30 recites “providing a semiconductor substrate having ... an electrically active region” and “depositing upon the electrically active region”. Amendment A, p. 4. Because of this recitation, independent claim 30 satisfies the condition of creating a barrier on a semiconductor substrate.

The Final Office Action mailed August 11, 2000, disposes of claims 1-25 and 31-36 as pending and rejected. *See* Final Office Action, p.1. No reference is made to independent claim 30 and no information concerning the status of claim 30 is provided in the Final Office Action.

As indicated above, the Final Office Action disposes of claims 31-36 as pending and rejected. *See* Final Office Action, p.1. However, the Detailed Action does not provide any statutory or other legal basis for rejecting claims 31-36.

2. **Requirement Pursuant to 37 C.F.R. § 1.181(c)**

Even if the optional measure “it may be required that there have been a proper request for reconsideration ... and a repeated action by the examiner” as provided in relevant part of 37 C.F.R. § 1.181(c) were required, Applicants note to this respect as follows.

In the Remarks contained in Amendment B and Response filed July 13, 2000, Applicants recited and requested as follows:

The Office Action indicated the withdrawal of independent Claim 30 on the basis that it was drawn to ‘a method of deposition on any surface’ rather than being drawn to a surface that is ‘a semiconductor substrate’. The Applicants respectfully point out that Claim 30 recites ‘providing a *semiconductor substrate*’ upon which a metal oxide is formed(emphasis added). As such, the Applicants respectfully request reconsideration of the withdrawal of Claim 30 and examination of the same.

Amendment B and Response, Remarks, p. 3, ¶ 2.

The Final Office Action referred to hereinabove issued as an action after the filing of the quoted Amendment B and Response.

3. **Point or Points to Be Reviewed and Action Requested Under 37 C.F.R. § 1.181(b)**

A. Applicants respectfully request that the final character of the Office Action mailed August 11, 2000, be lifted because of the improper withdrawal of claim 30.

B. Applicants respectfully request that the final character of the Office Action mailed August 11, 2000, be lifted because claim 30 was not examined.

C. Applicants respectfully request that the final character of the Office Action mailed August 11, 2000, be lifted because no statutory or other legal basis for rejecting claims 31-36 was provided in the same Office Action.

D. Applicants respectfully request that claim 30 be examined and that the statutory or other legal basis for allowance or rejection of claims 30-36 be provided.

4. Conclusions

In view of the above, Applicants respectfully maintain that the issuance of the Final Office Action mailed August 11, 2000, was premature. Furthermore, Applicants respectfully maintain that the foregoing requested actions will place the present patent application in proper condition for allowance or for further proceedings.

In the event that the review of this Petition gives rise to any question that can be clarified by a telephonic interview, Applicants respectfully request that such interview be initiated with the undersigned attorney.

DATED this 5th day of October 2000.

RESPECTFULLY SUBMITTED,



Jesús Juanós i Timoneda, Ph.D.
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Registration No. 43,332

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Applicant(s): Cathey, et al.

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October 5, 2000

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Jesús Juanós i Timoneda

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